

Union Calendar No. 242

105TH CONGRESS
2D SESSION

H. R. 992

[Report No. 105-424]

To end the Tucker Act shuffle.

IN THE HOUSE OF REPRESENTATIVES

MARCH 6, 1997

Mr. SMITH of Texas introduced the following bill; which was referred to the
Committee on the Judiciary

MARCH 3, 1998

Additional sponsors: Mr. RADANOVICH, Mr. MCHUGH, Mr. SKEEN, Mr. HAYWORTH, Mr. EVERETT, Mr. BONILLA, Mr. HASTINGS of Washington, Mr. LIVINGSTON, Mr. STUMP, Mr. YOUNG of Alaska, Mr. PETERSON of Minnesota, Mr. STENHOLM, Mr. BARRETT of Nebraska, Mr. CRAPO, Mr. THORNBERRY, Mr. SESSIONS, Mr. SAM JOHNSON of Texas, Mr. NORWOOD, Mr. BARCIA, Mr. HALL of Texas, Mr. PICKETT, Mr. CANADY of Florida, Mr. TURNER, Mr. NETHERCUTT, Mr. COMBEST, Ms. GRANGER, Mr. SENSENBRENNER, Mr. ARCHER, Mr. LEWIS of Kentucky, Mr. BARTON of Texas, Mr. PAUL, Mr. BRADY, Mr. SOLOMON, Mr. GOODE, Mr. MCINTOSH, Mr. GIBBONS, Mr. CHABOT, Mr. COLLINS, Mr. BAKER, Mr. BOB SCHAFFER of Colorado, Mr. HOLDEN, Mr. WELDON of Florida, Mrs. CHENOWETH, Mr. GALLEGLY, Mr. MARTINEZ, Mr. SMITH of Oregon, Mr. DEAL of Georgia, Mr. HUTCHINSON, Mr. CANNON, Mr. INGLIS of South Carolina, and Mr. GILLMOR

MARCH 3, 1998

Reported with amendments, committed to the Committee of the Whole House
on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on March 6, 1997]

A BILL

To end the Tucker Act shuffle.

1 *Be it enacted by the Senate and House of Representa-*
 2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the “Tucker Act Shuffle Relief*
 5 *Act of 1997”.*

6 **SEC. 2. TUCKER ACT SHUFFLE RELIEF.**

7 *(a) IN GENERAL.—*

8 *(1) GRANT OF CONCURRENT JURISDICTION.—Ex-*
 9 *cept as provided in paragraph (3), the United States*
 10 *district courts and the United States Court of Federal*
 11 *Claims shall each have original jurisdiction to hear*
 12 *and determine all claims (whether for monetary or*
 13 *other relief) arising out of agency action alleged—*

14 *(A) to constitute a taking in violation of the*
 15 *fifth article of amendment to the Constitution of*
 16 *the United States; or*

17 *(B) not to constitute such a taking only be-*
 18 *cause the action was not in accordance with law-*
 19 *ful authority.*

1 (2) *ELECTION BY PLAINTIFF.*—*The plaintiff, by*
2 *commencing an action under this section, elects which*
3 *court shall hear and determine those claims as to that*
4 *plaintiff.*

5 (3) *PARTIES INVOLUNTARILY JOINED.*—*No third*
6 *party may be involuntarily joined to a case, within*
7 *the jurisdiction of the Court of Federal Claims by rea-*
8 *son of this section, if that party would be entitled to*
9 *a determination of the claim with respect to which*
10 *that party is joined by a court established by or*
11 *under article III of the Constitution of the United*
12 *States.*

13 (b) *EQUITABLE AND DECLARATORY REMEDIES.*—*With*
14 *respect to any claim within its jurisdiction by reason of*
15 *this section, the Court of Federal Claims shall have the*
16 *power to grant equitable and declaratory relief when appro-*
17 *priate.*

18 (c) *APPEALS.*—*Any appeal from any action com-*
19 *menced under this section shall be to the United States*
20 *Court of Appeals for the Federal Circuit.*

21 (d) *DEFINITIONS.*—*As used in this Act, the term—*

22 (1) *“agency” means a department, agency, inde-*
23 *pendent agency, or instrumentality of the United*
24 *States, including any military department, Govern-*
25 *ment corporation, Government-controlled corporation,*

1 *or other establishment in the executive branch of the*
 2 *United States Government; and*

3 (2) “agency action” means any action or deci-
 4 *sion taken by an agency.*

5 (e) *CONFORMING AMENDMENT TO TITLE 28, UNITED*
 6 *STATES CODE, RELATING TO JURISDICTION OVER TORT*
 7 *CLAIMS.*—Section 1346(b) of title 28, United States Code,
 8 *is amended by inserting “and the Tucker Act Shuffle Relief*
 9 *Act of 1997” after “chapter 171 of this title”.*

10 **SEC. 3. REPEAL OF LIMITATION ON FEDERAL CLAIMS**
 11 **COURT JURISDICTION BECAUSE OF PEND-**
 12 **ENCY OF CLAIMS IN OTHER COURTS.**

13 (a) *IN GENERAL.*—Section 1500 of title 28, United
 14 *States Code, is repealed.*

15 (b) *CLERICAL AMENDMENT.*—The table of sections for
 16 *chapter 91 of title 28, United States Code, is amended by*
 17 *striking out the item relating to section 1500.*

Amend the title so as to read: “A bill to end the
 Tucker Act shuffle, and for other purposes.”.

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